

REMARKS

Reconsideration of this application and the rejection of claims 1-20 are respectfully requested. Applicants have attempted to address every ground for rejection in the Office Action dated March 11, 2005 (Paper No. 03052005), which has been made final, and believe the application is now in condition for allowance. In the alternative, the claims are considered to be in better form for appeal. The claims have been amended to more clearly describe the present invention. Most of the amendments involve canceling claims already of record and incorporating their subject matter into the corresponding main claim. New claim 21 is a combination of claims 1, 2 and 13 as previously submitted.

Claims 1 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Wagdy (U.S. Pat. No. 4,483,473). Wagdy discloses a portable gas-fired fastener-driving tool 10 that includes, among other things, a housing 11, a cylinder 29, a valve sleeve 33, and a probe assembly 50. The tool 10 further includes an annular bumper 40 located in the lower end of the cylinder 29. The bumper 40 serves as a shock absorber for a piston 30, which travels within the cylinder 29 (col. 3, ll. 65-68; FIG. 1).

As amended, claim 1 now recites, among other things, features from canceled claim 2, not part of the rejection. As such, the Examiner recognizes the failure in Wagdy to disclose the subject matter now recited in amended claim 1.

Therefore, Applicants contend that as amended, claim 1 is patentably distinct from Wagdy, and the rejection of claim 1 under 35 U.S.C. 102(b) is respectfully traversed.

Regarding claim 17, Wagdy also discloses a spring 57 that is located inside the tool between a lower end of the cylinder body 29 and a lower end of the probe assembly 50. Unlike Wagdy, the spring 74 of the present invention is located externally on the tool between a lower end of the probe assembly and a retaining ring and is configured for biasing the probe assembly into the first position. As amended, among other things claim 17 recites this structure. Applicants submit that as amended, claim 17 is patentably distinct from Wagdy, and therefore the rejection of claim 17 under 35 U.S.C. 102(b) is respectfully traversed.

Claims 1-11 and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Nayrac et al. (US 6,138,887). Claim 1 has been amended by incorporating features of canceled claim 12, not part of the rejection and thus recognized by the Examiner as including distinguishing structure. Claim 20 has been canceled, rendering that rejection moot. Accordingly, the rejection based on Nayrac is respectfully traversed.

Claims 1, 12-15, 17 and 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Nikolich (U.S. Pat. No. 5,197,646). Claim 1 has been amended by incorporating features of claim 2, not part of the rejection and thus recognized by the Examiner as reciting structure not found in Nikolich. Accordingly, the rejection of claims 1 and 12-15 based on Nikolich is respectfully traversed.

Regarding claims 17 and 18, as is the case with Wagdy, Nikolich discloses in FIGs. 8-10 a spring located between the cylinder and the probe assembly and internally of the tool. As amended, claim 17 now recites, among other things, a single spring located externally on the tool. In view of the failure of Nikolich to disclose the structure now recited in amended claim 17, the rejection of claims 17 and 18 based on this reference is respectfully traversed.

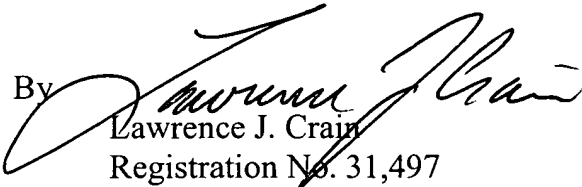
Claims 16 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolich (U.S. Pat. No. 5,197,646). The arguments asserted above traversing Nikolich are reasserted here. Claim 16 ultimately depends from claim 1, which as amended is now allowable over Nikolich. Claim 19 depends from claim 17, also now considered to be in allowable form as amended. Therefore, the Section 103 rejection based on Nikolich is respectfully traversed.

Appl. No. 10/774,269
Amdt. dated June 13, 2005
Reply to Office Action of March 11, 2005

In view of the above amendments and remarks, the application is respectfully submitted to be in allowable form. Allowance of the rejected claims is respectfully requested. In the alternative, the claims are submitted to be in better form for appeal. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below. Correspondence should continue to be directed to Lisa Soltis, attorney of record.

Respectfully submitted,

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June 13, 2005

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